

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

DUNNIVEN ORLANDO PHELPS,

Plaintiff,

v.

AMANDA GANN, RN,

Defendant.

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Case No. 21-CV-365-GKF-JFJ

UNOPPOSED MOTION TO AMEND SCHEDULING ORDER

Defendant Amanda Gann, RN, respectfully requests that this Court amend the Third Amended Scheduling Order entered July 18, 2023 (Doc. #59) by extending the deadline for Dispositive Motions, Daubert Motions, and Motions in Limine and all other subsequent Scheduling Order deadlines by approximately sixty (60) days. Plaintiff's counsel does not object to the relief requested herein. In support of this motion, Defendant states as follows:

1. The Court entered its original Scheduling Order on October 1, 2022. (Doc. #49). The Scheduling Order was subsequently modified on February 15, 2023 (Doc. #51), April 5, 2023 (Doc. #54), and July 18, 2023 (Doc. #59).

2. Since entry of the Third Amended Scheduling Order on July 18, 2023, both Plaintiff and Defendant have exchanged expert witness materials, have completed written discovery, gathered necessary third-party records, and have taken necessary fact witness depositions.

3. Neither Plaintiff nor Defendant has yet been able to take the deposition of the opposing party's expert witness(es). Given the limited availability of the parties' experts and challenges in scheduling expert witness depositions, the parties jointly requested expert witness depositions be permitted until February 16, 2024 (Doc. No. 65). This Court granted the parties'

request and entered a Minute Order on December 11, 2023 permitting the parties to depose expert witnesses in this matter until February 16, 2024. (Doc. No. 66).

4. The present deadline for filing Dispositive Motions, Daubert Motions and Motions in Limine is December 14, 2023. Defendant Gann intends to file a dispositive motion, and she believes that the deposition of Plaintiff's expert is necessary to her dispositive motion. Defendant Gann also intends to file a Daubert Motion in this case, though this will ultimately depend upon the deposition of Plaintiff's expert witness, and any Daubert motion would most likely require the testimony (*i.e.*, deposition transcript) of the expert witness at issue. The expert witness testimony may also have an impact on certain Motions in Limine to be filed.

5. As such, Defendant Gann believes that the current deadline of December 14, 2023 for Dispositive Motions, Daubert Motions and Motions in Limine should be extended by sixty (60) days, such that both parties will have the benefit of expert witness depositions before having to file any such motions. Further, the extension of this motions deadline will impact all other remaining Scheduling Order deadlines. Therefore, Defendant additionally requests that all subsequent Scheduling Order deadlines be extended by the same amount of time.

6. Defendant's counsel has spoken with Plaintiff's counsel about this Motion and the relief requested herein, and Plaintiff's counsel does not object to the relief requested herein.

7. A proposed Fourth Amended Scheduling Order has been submitted contemporaneously herewith for the Court's consideration.

WHEREFORE, Defendant respectfully requests this Court extend the Dispositive Motions, Daubert Motions, and Motions in Limine deadlines and all other remaining Scheduling Order deadlines by approximately sixty (60) days.

Respectfully submitted,

/s/ W. Caleb Jones

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2023, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants.

/s/ W. Caleb Jones